

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Henry Marshall Israel et. al. **Group Art Unit:** 3731
Serial No.: 10/644,465 **Examiner:** Michael Thaler
Filed: August 20, 2003
For: FLEXIBLE EXPANDABLE STENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

RESPONSE TO ELECTION REQUIREMENT

Sir:

In response to the Official Action dated October 6, 2006 requiring an election of species, Applicants respectfully submit the following response.

I. **The Examiner's Election Requirement**

The Examiner has stated that this application contains claims directed to the following:

- Species 1: Figures 1-5B.
- Species 2: Figure 6.
- Species 3: Figure 7 and 8.

The Examiner has required Applicants to elect a single disclosed species for prosecution, and a listing of all readable claims.

II. **Applicants' Provisional Election of Species With Traverse**

Applicants respectfully **traverse** the Examiner's restriction requirement. However, in order to facilitate prosecution and to avoid a holding of non-responsiveness

in this application, applicants provisionally elect with traverse to pursue prosecution of Species 3, Figure 7-8 and Claims 42, 44-49, and 51-72.

III. Applicants' Traversal

This election is made with traverse. Applicants respectfully submit that: (1) all groups of claims are properly presented in the same application; (2) undue diverse searching should not be required since all the claims are in the same class; and (3) all claims should be examined together. Fig. 5A and 5B are functional concepts of each and every species and therefore should be included. Figures 1-4 and 6 are embodiments that do not require undue diverse searching because the subject matter is within the same class. For the foregoing reasons, it is respectfully submitted that the election requirement should be withdrawn.

Should any of the provisionally elected claims be found generic and allowed, it is noted that the Applicant is entitled to a reasonable number of species. The Examiner is respectfully requested to reconsider this election requirement if such a claim is found. In the event that the Examiner does not withdraw the requirement, Applicants expressly reserve the right to timely file a divisional application directed to the non-elected subject matter.

If any issues remain, or if the Examiner has any suggestions for expediting allowance of the application, the Examiner is invited to contact the undersigned attorney.